

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, 8th floor, H-Wing, Mazgaon, Mumbai - 400010.

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)

(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AABFJ4989Q1ZF
Legal Name of Applicant	JALARAM FEEDS
Registered Address/ Address provided while obtaining user id	K-31/2A & 3A, MIDC, HINGNA ROAD, NAGPUR-16.
Details of application	GST-ARA, Application No. 110 ,DATED 14.01.2019
Concerned officer	Asstt. Commr. of CGST & C Ex., Division Hingna, Nagpur-I
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Factory/Manufacturing
B Description (in brief)	The Applicant is manufacturing of only Compound Animal Feed (HSN Code : 2309)
Issue/s on which advance ruling required	whether applicant is required to be registered under the Act
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively] by M/s JALARAM FEEDS, seeking an advance ruling in respect of the following question.

Whether the firm is liable to take registration under section 24 or is exempted from registration under section 23?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

02. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

STATEMENT OF FACTS

The said firm M/s Jalaram Feeds a registered Partnership firm having its registered office at K-31/2A, MIDC, Hingna Road, Nagpur-16, is into manufacturing of only Compound Animal Feed (HSN Code : 2309). The above product is **exempted** under the CGST Act, 2017. No other supply of any kind of Goods and Services is made by the firm which in anyways is chargeable to Tax under CGST Act, 2017.

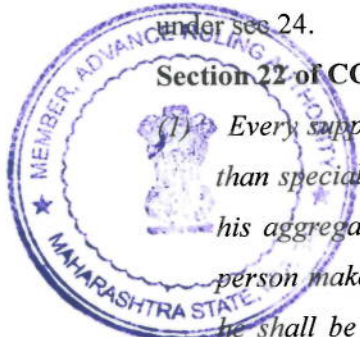
The Firm says that since it is into supply of only exempted goods, it is covered under section 23 of CGST Act, 2017 and is not liable to take registration under any of the provisions of the Act, since the firm is into the supply of Exempted goods, it requires services of Goods Transport Agency like any other business. As per the provisions of Act, 2017, a firm is liable to take registration as it is liable to pay GST under Reverse Charge. The firm is of the opinion that Sec 24 overrules sec 22 (Person Liable to register beyond a specific aggregate turnover) and not sec 23, Since section 23 is a specified section and independent and is not overruled by section 24, it is covered under sec 23 and not required to take registration under the CGST Act, 2017.

Section 24 specifically starts with

"Notwithstanding anything contained in sub-section (1) of section 22," so as to overrule sec 22 and not sec 23.

Most of the persons in the supply of Exempted goods and services require services under which reverse charge is payable. And hence there would be no need of section 23 as everyone would be covered under sec 24.

Section 22 of CGST Act, 2017 from bare act: - Section 22 of CGST Act - *Persons liable for registration*

- 
- (1) *Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees: Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees,*
 - (2) *Every person who; on the day immediately preceding the appointed day, is registered or holds a licence under an existing law, shall be liable to be registered under this Act with effect from the appointed day,*
 - (3) *Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.*
 - (4) *Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to*

sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

Section 23 of CGST Act, 2017 from bare act : -

(1) The following persons shall not be liable to registration, namely:--

- (a) Any person engaged exclusively in the business of supplying goods or services or both that is not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;
- (b) An agriculturist, to the extent of supply of produce out of cultivation of land.

(2) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

Section 24 of CGST Act - Compulsory registration in certain cases Section 24 of CGST Act, 2017 from bare act:

Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this ACT, --

- (i) persons making any inter-State taxable supply,
- (ii) casual taxable persons making taxable supply;
- (iii) persons who are required to pay tax under reverse charge;
- (iv) person who are required to pay tax under sub-section (5) of section 9;
- (v) non-resident taxable persons making taxable supply;
- (vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;
- (vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- (viii) Input Service Distributor, whether or not separately registered under this Act;
- (ix) persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic Commerce operator who is required to collect tax at source under section 52;
- (x) every electronic commerce operator;
- (xi) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person; and
- (xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council.



ADDITIONAL SUBMISSIONS ON 11.03.2019

Background of the firm:

1. Jalaram Feeds is registered partnership firm having its registered office at K-31/2A, MIDC, Hingna road, Nagpur-16.
2. Jalaram Feeds is engaged exclusively in manufacturing and sale of only **Compound Animal feeds (HSN code: 2309)** which is an exempted supply as per Notification No. 2/2017 - Central Tax (Rate) New Delhi, 28th June 2017
3. Apart from the aforesaid, **no other supply** of any kind of goods or services are made by the firm which in anyway is chargeable to tax under CGST Act, 2017
4. 99% customer base of Jalaram Feeds is **farmers** .

Facts of the case and Contention of the Firm :

Chapter VI of The **Central Goods and Services Act 2017**(CGST Act) deals with Registration. Section 22 deals with Person liable for registration, Section 23 deals with Persons not liable for registration and Section 24 deals with Compulsory registration in certain cases, Let us first understand the interpretation/ intention of the law maker:

Section 22(1) of the CGST Act says:

22. (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, **other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees.**

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

Section 2(6) defines Aggregate Turnover as: -

"aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;

Section 2(47) defines Exempt Supply as: -

"exempt supply" means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

To sum-up now, it is a clear interpretation that if a person is in the business of supply of Exempt Goods irrespective of Turnover (INR 50 lakhs) exceeding the Limits specified in the section he is not liable to

take registration because the turnover criteria is only applicable for taxable supply:

Suppose for an instance, if the supplier in addition to the above supplies a Taxable Good or Service for say INR 10 Lakhs, he would be liable for registration as the Aggregate Turnover would exceed the specified limit.

Which is not the case of Jalaram Feeds, as the firm is exclusively into supply of Cattle Feed (HSN: 2309) which is an Exempted Supply. Hence Jalaram Feeds is not liable to take registration under sec 22(1).

Dealing Exclusively in Exempt Supplies

Section 23 of CGST Act deals with persons not liable for registration is reproduced here for ready reference.

The following persons shall not be liable to registration, namely:

- (a) *Any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;*
- (b) *An agriculturist, to the extent of supply of produce out of cultivation of land.*

As per sec 23 (a), Jalaram Feeds engaged exclusively in the business of supply of Cattle Feed (HSN: 2309) wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act, and hence liable for registration.

Section 24 of CGST Act deals with compulsory registration in certain cases.

Section 24 reads as under:

Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act,

- (i) *Persons making any inter-State taxable supply;*
- (ii) *Casual taxable persons making taxable supply;*
- (iii) *Persons who are required to pay tax under reverse charge;*
- (iv) *Persons who are required to pay tax under sub-section (5) of section 9;*
- (v) *Non-resident taxable persons making taxable supply;*
- (vi) *Persons who are required to deduct tax under section 51, whether or not separately registered under this Act;*
- (vii) *Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise,*
- (viii) *Input Service Distributor, whether or not separately registered under this Act;*
- (ix) *Persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52;*

- (x) *Every electronic commerce operator;*
- (xi) *Every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person; and*
- (xii) *Such other person or class of persons as may be notified by the Government on the recommendations of the Council.*

It is fairly common in tax laws to use the expression "Notwithstanding anything contained in this Act or other Acts" or "Subject to other provisions of this Act or Other Acts". Ordinarily, it is a legislative device to give such a clause an overriding effect over the law or provision that qualifies such clause,

On the clear reading of section 24 it has been devised to override sec 22(1) as it starts with the expression Notwithstanding anything contained in sub-section (1) of section 22". Thus section 24 specifically overrides the provisions of Section 22(1). However section 24 does not mention anything about sec 23 as it is a specific section.

Applying the interpretation rules of Law, it can be very well concluded that the legislation has chosen consciously section 24 to override the provisions of section 22(1) and has deliberately left-out section 23 from section 24 as sec. 23(Exempted Supplies) is a specific section. Let us understand the intention of the Legislature using the Example:

As per this Section, if a person obtains a service of a GTA, or a Lawyer, or any goods or service with reverse charge liability, irrespective of the turnover is liable to obtain registration. If this section overrules sec 23 (which is not mentioned anywhere), then majority of the persons in the business of exempted goods will be liable for registration as they obtain GTA services for transportation of these goods. Hence drafting of sec 23 in GST Act has no relevance since each and every person doing any commercial activity even for one Rupee becomes liable to take registration under GST including a Farmer who supplies Fruits/ Vegetables/ Maize from his fields to the market. He requires to obtain services of GTA as he himself doesn't have any vehicle to transport, Despite the fact that he supplies exempted goods, he will be liable to register.

Also, as per sec 23 (b) An agriculturist, to the extent of supply of produce out of cultivation of land shall not be liable to registration under GST. But looking substance over form even this agriculturist producing cultivation of Land requires GTA service to transport its produce from his farms to the market and will also require registration under GST if sec 24 overrules sec 23, which questions the reasonability of Economic Tax Laws & intentions of the Legislature/ Lawmaker.

Article Compiles list of 149 Type of Goods which are exempt from Tax under GST with respective HSN Code and Description of Goods as per Notification No. 2/2017-Central Tax (Rate) New Delhi, the 28th June, 2017

GOODS AND SERVICES TAX

List of Exempted Goods under GST

S.No.	Classification	Description of Goods
1	0101	Live asses, mules and hinnies
2	0102	live bovine animals
3		
101	2202 90 90	Tender coconut water other than put up in unit container and bearing a registered brand name
102	2302,2304,2305,2306,2308,2309	Aquatic feed including shrimp feed, and prawn feed poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates additives, wheat bran & de-oiled cake
103	2501	Salt, all types
104	2716 00 00	Electrical energy

03. CONTENTION – AS PER THE CONCERNED OFFICER

The submission, as reproduced verbatim, could be seen thus-

Gist of application :

The applicant claim that Section 24 overrules Section 22 and not Section 23, according to which the firm which is into supply of wholly exempted goods is not liable to get registered under the Act.

Comments on the application for Advance Ruling are as under:

As per the provisions of section 9(3) or CGST / SGST(UTGST) Act, 2017 / section 5(3) IGST Act, 2017, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Accordingly vide Notification No. 13./2017-Central Tax (Rate) dated 28.06.2017 services were specified on which tax shall be paid on reverse charge basis by the recipient of such services. Goods Transport Service is one among them.

Section 22 of the CGST Act mandate every supplier liable to registered under Act is aggregate turnover of taxable supply or goods or services or both exceeds twenty Lakhs in a financial year. Section 23 exempt any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax of wholly exempt from tax under this Act of under the Integrated Goods and Services Tax Act And Section 24 says that Notwithstanding anything contained in sub-section (1) of section 22, the persons who are required to pay tax under reverse charge shall be required to be registered under this Act.

The Applicant claims that Section 24 overrules Section 22 and no Section 23, according to which the firm which is into supply of wholly exempted goods is not liable to get registered under the Act.

The contention of the applicant does not appear to be correct. Section 24 overrules section 22

which stipulate that for registration, there should be a taxable supply turnover of more than 20 lakhs in the financial year. Thus as per Section 24, if a person falls under specified category given, then he has to compulsorily get registered irrespective of the quantum of taxable supply turnover

Section 23 and Section 24 are independent sections. Section 23 exempts certain persons from registration under the Act. In the present case, the applicant is supplying exempted goods and therefore he is exempted from registration under the Act. But by virtue of Section 24 he has to register himself under the Act to pay his tax liability under reverse charge although his taxable supply is below 20 lakhs, which is zero in the present case.

As per Chapter Twelve of GST Flyers published at CBIC website, it is stated that "a person who is required to pay tax under reverse charge has to compulsorily register under GST and the threshold limit of Rs. 20 lakh (Rs. 10 lakh for special category states except J & K) is not applicable to them."

In case of Sonka Publications (India) (P) Ltd. Advance Ruling No 05/DAAR/2018 dated 06.04.2018 (AAR-Delhi) and Joint Plant committee. In re /2018/92 taxman 208 (AAR-Kol), the respective Advance Ruling Authority has ruled that person dealing only in exempted products is not required to be registered under GST, he is not liable under reverse charge.

Taking registration for payment of GST under reverse charge would not mean that the tax payer will have to pay taxes on his exempted supplies. His fully exempted supplies would continue to be exempted even if he has to pay tax under reverse charge mechanism.

Further as per notification No. 05/2017-CT dated 19.06.2017, Suppliers exclusively involved in providing services notified for payment of tax under reverse charge have been exempted for taking registration. In that case if contention of the applicant is accepted then neither the supplier of GTA service nor recipient would pay service tax nor would government lose revenue. This will defeat the basic purpose of reverse charge mechanism.

Thus the applicant shall be required to be registered as per Section 24 (iii) of CGST Act, 2017 ("Persons who are required to pay tax under reverse charge")

04. HEARING

Preliminary hearing in the matter was held on 20.02.2019. Sh. Jinish Katariya, CA appeared and requested for admission of their application as per details therein. It was brought to his notice to pay balance fee of Rs.5000. Jurisdictional Officer was not present for hearing.

The application was admitted and called for final hearing on 12.03.2019. Sh. Jinish Katariya, CA and Ms. Ruby Malviya appeared and made oral and written submissions along with payment challan of Rs.5000/-. Jurisdictional Officer Ms. Sonal Jawanjale Asstt. Commr. of CGST Division Hingna, Nagpur-I, Commissionerate appeared and made written submissions. We heard both the sides.

05. OBSERVATIONS AND FINDINGS:

We have gone through the facts of the case and written submission made by applicant and jurisdictional officer on record. The issue put before us is in respect of applicability of registration under the GST ACT which would be on the lines thus –

Facts of case:

Few facts relevant for the present purpose are as follows: Applicant is a registered person under the GST Act and is engaged exclusively in the manufacture of animal feed which are exempted from tax vide entry no. 102 of the Notification No. 2/2017 Central Tax (Rate) dated 28.06.2017. Applicant is of the firm view that they are not required to obtain registration under the GST Act as they are engaged exclusively in the business of supply of goods or services or both that are not liable to tax or wholly exempt from tax as provided under Section 23 of the GST which is reproduced as below:

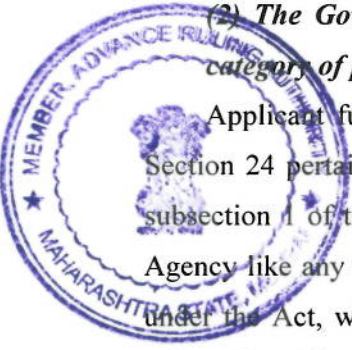
Section 23 of CGST Act, 2017 is reads as follows: -

(1) The following persons shall not be liable to registration, namely:--

(a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;

(b) an agriculturist, to the extent of supply of produce out of cultivation of land.

(2) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.



Applicant further submits that Section 23 of the Act is standalone section and the provisions of Section 24 pertaining to compulsory registration are applicable to a person liable for registration under subsection 1 of the section 22 of the GST Act, (even though they require Services of Goods Transport Agency like any other business). In this context we may mention that a person, must obtain registration under the Act, who is required to pay tax under reverse charge notwithstanding anything contained in sub-section (1) of Section 22 of the GST Act. On this factual matrix applicant has raised following question:

Question 1: Whether the firm is liable to take registration under section 24 or is exempted from registration under section 23?

The contention of the applicant that section 24 over rules section 22 only and not section 23, (section 23 being a specified section and independent and not overruled by section 24), and therefore not required to take registration, is not acceptable following reasons.

Scheme GST being a tax on the event of 'supply' every supplier needs to get registered. However, as per the scheme of the Act, not every supplier is required to get registered. Only those


suppliers, whose aggregate turnover of all supplies exceeds the threshold limit as prescribed under Section 22 (including exempted and taxable supplies). Thus to be registered a person satisfies two conditions namely, supply of taxable goods or services or both and aggregate turnover in a financial year exceeds threshold limit. The expression 'taxable supply' has been defined under the Act, as below:

Section 2(108): "taxable supply" means a supply of goods or services or both which is leviable to tax under this Act;

Thus a person who is engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax is not liable for registration under Section 22 of the GST Act. Thus even without referring to section 23 of the Act, we can say that a person, whose aggregate turnover of all supplies is other than taxable supply, is not liable for registration. Section 23, provide exemption to certain category/ class of person from obtaining registration under the Act. Such category consist of persons who are engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax or an agriculturist, to the extent of supply of produce out of cultivation of land. Thus section 23 is not contrary to section 22 but is clear expression of the intent of Section 23. Therefore there is no force in the contention of the applicant that section 23 is a specified section and independent and not over ruled by Section 24.

Section 24 of CGST Act - Compulsory registration in certain cases Section 24 of CGST Act, 2017 from bare act:

Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this ACT, --

- 
- (i) persons making any inter-State taxable supply;
 - (ii) casual taxable persons making taxable supply;
 - (iii) persons who are required to pay tax under reverse charge;
 - (iv) person who are required to pay tax under sub-section (5) of section 9;
 - (v) non-resident taxable persons making taxable supply;
 - (vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;
 - (vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
 - (viii) Input Service Distributor, whether or not separately registered under this Act;
 - (ix) persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic Commerce operator who is required to collect tax at source under section 52;
 - (x) every electronic commerce operator;

- (xi) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person; and
- (xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

Section 24 deals with compulsory registration with respect to categories of persons specified therein. As per Section 24, persons who are required to pay tax under reverse charge shall, notwithstanding anything contained in subsection 1 of Section 22, be required to get registered under the Act. The term reverse charge has been defined under the Act as below:

Section 2(98): “reverse charge” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act;

Further, Government is vested with powers to specify by way of notification, categories of supply, the tax on which shall be paid on reverse charge basis by the recipient of such supplies. The relevant section of the GST Act are as below:

Section 9(3) : The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Section 9(4) : The State Tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Government, in exercise of its powers, vide Notification no. 13/2017 – Central Tax (Rate) dated 28/06/2017 and further amendment has specified certain services on which tax shall be paid on reverse charge basis by the recipient of such services. The relevant part of the Notification is reproduced as below:

Notification No. 13/2017- Central Tax (Rate)

New Delhi, the 28th June, 2017

GSR.....(E).- In exercise of the powers conferred by sub-section (3) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government on the recommendations of the Council hereby notifies that on categories of supply of services mentioned in column (2) of the Table below,



supplied by a person as specified in column (3) of the said Table, the whole of central tax leviable under section 9 of the said Central Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the such services as specified in column (4) of the said Table:-

Table

Serial No.	Category of Supply of Services	Supplier of Service	Recipient of Service
1	2	3	4
1	Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, 1948(63 of 1948);or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person	Goods Transport Agency (GTA)	a).Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person; located in the taxable territory.



From the above notification we find that Goods Transport Service is covered by the notification. Applicant has stated that they require services of Goods Transport Agency like any other business. Applicant being a recipient of supply is liable to pay tax under reverse charge basis and as per Section 9(4) of the Act, all the provisions of this act shall apply to such recipient (in this case, the applicant), as if they are the persons liable for paying the tax in relation to such supply. Thus from conjoint reading of Section 9 and section 24 of the Act, since the applicant is required to pay tax under reverse charge, they have to compulsorily register under GST and the requirements of Section 22(1) pertaining to taxable supply and the threshold limit are not applicable to them.

The Applicant has argued that Section 23 of the Act is standalone section and the provisions of

Section 24 pertaining to compulsory registration are applicable to a person liable for registration under subsection (1) of the Section 22 of the GST Act. This argument makes the Section 24 of the Act redundant and the applicant would not be required to pay the tax on Services of Goods Transport Agency on reverse charge basis provided in the Section 24 of the Act. In this context it is pertinent to remind a well settled principle of law that the law should not be interpreted in such a way to make any part of the statute redundant. This principle is laid down in following judgments:

(i) Caltex Oil Refining (India) Ltd. vs. Commissioner Of Income-Tax on 1 December, 1992 : Equivalent citations: (1993) 95 BOMLR 975, 1993 202 ITR 375 Bom, 1993 (2) MhLj 1758

“The well known principle of interpretation is that no part of the statute should be construed in a way to make it redundant”

(ii) Income Tax Appellate Tribunal – Ahmedabad : Late Janak K. Kansara vs Deputy Commissioner Of Income Tax on 28 March, 2008 :Equivalent citations: (2008) 116 TTJ Ahd 415

“ It is an established rule of interpretation that one should not interpret a provision in such a manner so as to make what has been enacted in other provisions of the Act as redundant. The legislature does not enact anything in the statute without any meaning or purpose.”

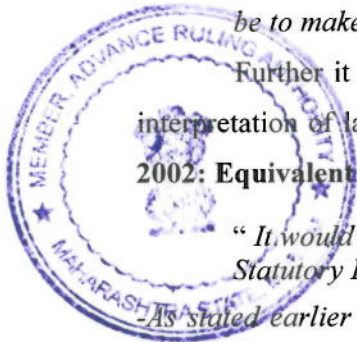
(iii) Kerala High Court: T.V. Abdul Nazar And Anr. vs P.K. Mohammed Kutty, Drug ... on 19 July, 1985: Equivalent citations: 1986 CriLJ 1534

“Even if there is conflict between the provisions, the object and purpose of interpretation should be to give effect to both the provisions to the extent possible. Interpretation will have to be made with that object in view. The object of interpretation must be to have a compromise between the rival provisions to the extent possible. The object of interpretation should not, as far as possible, be to make one of the provisions redundant”.

Further it is in the fitness of things to bear in mind certain established principles of law on the interpretation of law by renowned jurists as stated in **Eicher Tractors Ltd. vs Dy. CIT on 4 October, 2002: Equivalent citations: (2002) 77 TTJ Del 681** as under:

“ It would be very apt at this stage to refer to certain observations/extracts from the ‘Principles of Statutory Interpretation’ by Justice G.P. Singh, Eighth Edn. 2001, as follows :

As stated earlier and as approved by the Supreme Court, ‘the words of a statute, when there is doubt about their meaning, are to be understood in the sense in which they best harmonise with the subject of the enactment and the object which the legislature has in view. Their meaning is found not so much in a strict grammatical or etymological propriety of language, nor even in its popular use, as in the subject or in the occasion on which they are used, and the object to be attained’. The courts have declined ‘to be bound by the letter, when it frustrates the patent purposes of the statute’. In the words of Shah, J. : ‘It is a recognized rule of interpretation of statutes that expressions used therein should ordinarily be understood



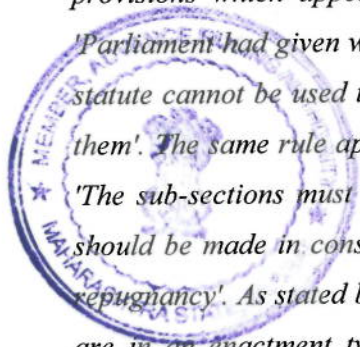
in a sense in which they best harmonise with the object of the statute, and which effectuate the object of the legislature'.

-Therefore, when two interpretations are feasible the court will prefer that which advances the remedy and suppresses the mischief as the legislature envisioned."

-When the material words are capable of bearing two or more constructions the most firmly established rule for construction of such words 'of all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law)' is the rule laid down in Heydon's case which has "now attained the status of a classic. The rule which is also known as 'purposive construction' or 'mischief rule', enables consideration of four matters in construing an Act : (i) what was the law before the making of the Act, (ii) what was the mischief or defect for which the law did not provide; (iii) what is the remedy that the Act has provided; and (iv) what is the reason of the remedy. The rule then directs that the courts must adopt that construction which 'shall suppress the mischief and advance the remedy'."

-Inconsistency and repugnancy to be avoided, harmonious construction :

It has already been seen that a statute must be read as a whole and one provision of the Act should be construed with reference to other provisions in the same act so as to make a consistent enactment of the whole statute. Such a construction has the merit of avoiding any inconsistency of repugnancy either within a section or between a section and other parts of the statute. It is the duty of the courts to avoid 'a head on clash' between two sections of the same Act and, "whenever it is possible to do so, to construe provisions which appear to conflict so that they harmonise.' it should not be lightly assumed that 'Parliament had given with one hand what it took away with the other'. The provisions of one section of a statute cannot be used to defeat those of another 'unless it is impossible to effect reconciliation between them'. The same rule applies in regard to sub-sections of a section. In the words of Gajendragadkar, J. : 'The sub-sections must be read as parts of an integral whole and as being interdependent' an attempt should be made in construing them to reconcile them if it is reasonably possible to do so, and to avoid repugnancy'. As stated by Venkatarama Aiyar, J. : 'The rule of construction is well settled that when there are in an enactment two provisions which cannot be reconciled with each other, they should be so interpreted that, if possible, effect should be given to both. This is what is known as the rule of harmonious construction. That effect should be given to both, is the very essence of the rule. Thus a construction that reduces one of the provisions to a 'useless lumber' or 'dead letter' is not harmonious construction. To harmonise is not to destory. A familiar approach in all such cases is to find out which of the two apparently conflicting provisions is more general and which is more specific and to construe the more general one is to exclude the more specific. The question as to the relative nature of the provisions general or special has to be determined with reference to the area and extent of their application either generally or specially in particular situations. The principle is expressed in the maxims Generalia



specialibus non derogant, and Generalibus specialia derogant. If a special provision is made on a certain matter, that matter is excluded from the general provision."

By application of the above principles of jurisprudence namely the rule of harmonious construction and the rule against redundancy, the applicant would go out of the scope of Section 23 of the GST Act because he is making certain quantity of taxable supply of goods transport service by way of reverse charge mechanism and would fall within the scope of section 24 of the GST Act for the purpose of registration and hence he would be required to obtain registration under the Act in order to discharge his duty liability under reverse charge, notwithstanding the turnover limits specified in sub-section (1) of Section 22 of the GST Act.

6.0. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 110/2018-19/B- 38 **Mumbai, dt. 10/04/2019**

For reasons as discussed in the body of the order, the questions are answered thus –

Question: - Whether the firm is liable to take registration under sec 24 or is exempted from registration under sec 23?

Answer: - Applicant is liable to take registration in view of provisions of section 24 of the GST Act, 2017.



—sd—
B. TIMOTHY
(MEMBER)

—sd—
B. V. BORHADE
(MEMBER)

CERTIFIED TRUE COPY


MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State Tax, Mahavikas for Website.

Note :- An Appeal against this advance ruling order shall be made before the Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai – 400021.